

Internal Revenue Service

District
Director

Department of the Treasury
QRS, Stop 516-D
401 W. Peachtree St. NW.
Atlanta, GA 30365

Person to Contact:

Contact Telephone Number:

Date: SEP 18 1995

Certified Mail Return Receipt Requested

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code.

The information submitted disclosed that you were incorporated under the nonprofit laws of [REDACTED] on [REDACTED]. Your purpose as stated in your Articles of Incorporation is to maintain the roads in [REDACTED].

Your organization's primary activity is the maintenance of approximately [REDACTED] miles of private roads with a grader your organization has purchased for this purpose. These road easements are owned by the developers of your unincorporated and unrecorded subdivision. Neither the developers nor the County will maintain these roads which appear to be used by the general public.

Your membership consists of the property owners in the development. Your receipts are derived from a \$[REDACTED] donation requested from each property owner annually for the purpose of road maintenance. Your expenses are attributed solely to the road maintenance and covers the purchase of lime rock for the roads and diesel fuel and engine oil for the grader.

Though you claim that your organization conducts social gatherings, the only social activity specifically identified in your application is a pot luck dinner held after your annual meeting. You have no social or recreational facilities of your own.

Section 501(c)(7) of the Code provides for the exemption from Federal Income Tax of clubs organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net earnings of which inures to the benefit at any private shareholder.

[REDACTED]

Section 1.501(c)(7)-1(a) of the Income Tax Regulations provides that section 501(c)(7) of the Code applies only to clubs which are organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, but does not apply to any club if any part of the earnings inures to the benefit of any private shareholder. In general, this exemption extends to social and recreational clubs which are supported solely by membership fees, dues and assessments.

In defining the term "other nonprofitable purposes" the Service has long held and has been sustained by the courts that this means other purposes similar to pleasure and recreation.

Revenue Ruling 58-589, 1958-2 C.B. 266, provides that in order for an organization to establish that it is a club organized for pleasure, recreation and other nonprofitable purposes, it must have an established membership of individuals, personal contacts and fellowship. A commingling of the members must play a material part in the activities of such organizations.

Revenue Ruling 74-494, 1975-2 C.B. 214 provides that an organization of homeowners that own and maintain residential streets will be precluded from qualifying for exemption under section 501(c)(7) of the Code. The ruling states that a club which owns and maintains residential streets is not operated exclusively for pleasure, recreation and other nonprofitable purposes as required by section 501(c)(7). Your primary activity is the maintenance of residential streets. Since the residential streets you maintain are owned by real estate developers, your earnings inure to the benefit of the developers as well as your members. Your organization's activities relieve the developers of their own responsibilities to the property owners.

Further, the information submitted reflects that your social and recreational activities are insignificant and that fellowship and commingling for social and recreational purposes is immaterial.

The information submitted further indicates that you do not qualify under any other section of 501(a) of the Code. With regard to section 501(c)(4), you do not qualify as an exempt homeowners association as described in Revenue Ruling 74-99, 1974-1 C.B. 131 because you do not serve a community which bears a reasonable recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof.

Since you are not exempt from income tax you are required to file Federal income tax returns on Form 1120 for years ending [REDACTED], and thereafter.

If you do not agree with our determination, you may request that the Office of Regional Director of Appeals consider the matter. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and we will contact you to arrange a date. The hearing may be held at the regional office, or, if you request at any mutually convenient district office. If someone will represent you who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination on this matter.

Sincerely,

Helson C. Brown

District Director

Enclosure:
Pub 892

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. <input type="checkbox"/> Show to whom delivered, date, and addressee's address. (Extra charge)	2. <input type="checkbox"/> Restricted Delivery (Extra charge)
3. Article Addressed to: [REDACTED]	4. Article Number [REDACTED]
Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise	
Always obtain signature of addressee or agent and DATE DELIVERED .	
5. Signature — Address X [REDACTED]	6. Addressee's Address (ONLY if requested and fee paid) [REDACTED]
6. Signature — Agent X [REDACTED]	
7. Post Office [REDACTED]	

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